



Sen. Gary Forby

Filed: 5/16/2007

09500SB1041sam001

LRB095 05940 AJ0 36428 a

1 AMENDMENT TO SENATE BILL 1041

2 AMENDMENT NO. _____. Amend Senate Bill 1041 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Drilling Operations Act is amended by
5 changing Sections 4 and 6 as follows:

6 (765 ILCS 530/4) (from Ch. 96 1/2, par. 9654)

7 Sec. 4. Notice.

8 (a) Prior to commencement of the drilling of a well, the
9 operator shall give a copy of the Act with a written notice to
10 the surface owner of the operator's intent to commence drilling
11 operations.

12 (b) The operator shall, for the purpose of giving notice as
13 herein required, secure from the assessor's office within 90
14 days prior to the giving of the notice, a certification which
15 shall identify the person in whose name the lands on which
16 drilling operations are to be commenced and who is assessed at

1 the time the certification is made. The written certification
2 made by the assessor of the surface owner shall be conclusive
3 evidence of the surface ownership and of the operator's
4 compliance with the provisions of this Act.

5 (c) The notice required to be given by the operator to the
6 surface owner shall identify the following:

7 (1) The location of the proposed entry on the surface
8 for drilling operations, and the date on or after which
9 drilling operations shall be commenced.

10 (2) A photocopy of the drilling application to the
11 Department of Natural Resources for the well to be drilled.

12 (3) The name, address and telephone number of the
13 operator.

14 (4) An offer to discuss with the surface owner those
15 matters set forth in Section 5 hereof prior to commencement
16 of drilling operations.

17 ~~(5)~~ If the surface owner elects to meet the operator, the
18 surface owner shall request the operator to schedule a meeting
19 at a mutually agreed time and place within the limitations set
20 forth herein. Failure of the surface owner to contact the
21 operator at least 5 days prior to the proposed commencement of
22 drilling operations shall be conclusively deemed a waiver of
23 the right to meet by the surface owner.

24 ~~(6)~~ The meeting shall be scheduled between the hours of
25 9:00 in the morning and the setting of the sun of the same day
26 and shall be at least 3 days prior to commencement of drilling

1 operations. Unless agreed to otherwise, the place shall be
2 located within the county in which drilling operations are to
3 be commenced where the operator or his agent shall be available
4 to discuss with the surface owner or his agent those matters
5 set forth in Section 5 hereof.

6 ~~(7)~~ The notice and a copy of the Act as herein required
7 shall be given to the surface owner by either:

8 (A) certified mail addressed to the surface owner at
9 the address shown in the certification obtained from the
10 assessor, which shall be postmarked at least 10 days prior
11 to the commencement of drilling operations; or

12 (B) personal delivery to the surface owner at least 8
13 days prior to the commencement of drilling operations.

14 (C) Notice to the surface owner as defined in this Act
15 shall be deemed conclusive notice to the record owners of
16 all interest in the surface.

17 (Source: P.A. 89-445, eff. 2-7-96; revised 10-19-05.)

18 (765 ILCS 530/6) (from Ch. 96 1/2, par. 9656)

19 Sec. 6. Compensation of surface owners for drilling and
20 producing operations and duties after cessation of production.

21 (A) The surface owner shall be entitled to reasonable
22 compensation from the operator for damages as follows:

23 (1) To ~~to~~ growing crops, trees, shrubs, fences, roads,
24 structures, improvements, personal property, and livestock
25 thereon caused by the drilling of a new well. The surface

1 owner shall also be entitled to reasonable compensation
2 from the operator for subsequent damages.

3 (2) To ~~to~~ growing crops, trees, shrubs, fences, roads,
4 structures, improvements, personal property, and livestock
5 thereon.

6 (3) For the loss of the value of a commercial crop
7 corresponding to lands taken out of production because of
8 the use thereof by the operator for roads and production
9 equipment. Any recovery shall only be applicable if the
10 area adjacent to said roads and production equipment are
11 planted and harvested. The value of the crop shall be
12 calculated by: (i) determining the average per acre yield
13 for the crop on adjacent lands; (ii) determining the price
14 received for the sale of the crop on adjacent lands less
15 the cost of seed planting, chemicals, fertilizers and
16 harvesting; (iii) determining the acreage of the area
17 utilized for roads and production equipment; and (iv)
18 attributing the determined crop yield to the determined
19 acreage utilized and applying the determined price. The
20 initial determination of the value of the crop shall be
21 determined by the surface owner and submitted to the
22 operator. The surface owner and operator shall mutually
23 agree as to the value of the crop utilizing the above
24 referenced formula for the initial crop year and all ~~caused~~
25 by subsequent crop years ~~production operations of the~~
26 operator thereon. ~~The surface owner shall also be entitled~~

1 ~~to reasonable compensation~~

2 (4) For ~~for~~ all negligent acts of operator that cause
3 measurable damage to the productive capacity of the soil.

4 ~~In addition,~~

5 (A-5) The ~~the~~ operator shall not utilize any more of the
6 surface estate than is reasonably necessary for the
7 exploration, production and development of the mineral estate.

8 (B) The compensation required pursuant to paragraph (A)
9 above shall be paid in any manner mutually agreed upon by the
10 operator and the surface owner, but the failure to agree upon,
11 or make the compensation required, shall not prevent the
12 operator from commencement of drilling operations; provided,
13 however, that operator shall tender to the surface owner
14 payment by check or draft in accordance with the provisions
15 herein no later than 90 days after completion of the well. The
16 surface owner's remedy shall be an action for compensation in
17 the circuit court in which the lands or the greater part
18 thereof are located on which drilling operations were
19 conducted; provided, however, that if operator fails to tender
20 payment within the 90-day period or if the tender is not
21 reasonable, surface owner shall be entitled to reasonable
22 compensation as provided herein as well as attorney's fees.

23 If operator relies on a third party appraiser or fair
24 market value, such amount shall be conclusively deemed to be
25 reasonable, and there shall be no award of attorney's fees.

26 (C) In conjunction with the plugging and abandonment of any

1 well, the operator shall restore the surface to a condition as
2 near as practicable to the condition of the surface prior to
3 commencement of drilling operations; provided, however, that
4 the surface owner and operator may waive this requirement in
5 writing, subject to the approval of the Department of Natural
6 Resources that the waiver is in accordance with its rules.

7 (D) Where practicable and absent a written agreement to the
8 contrary with the surface owner, all flow lines and other
9 underground structures must be buried to a depth not less than
10 36 inches from the surface.

11 (Source: P.A. 89-445, eff. 2-7-96.)".